

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In re Fosamax Products Liability :  
Litigation :  
: :  
-----X

1:06-md-1789 (JFK)

ORDER

This Document Relates to: :  
All Actions. :  
-----X

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 9-9-08

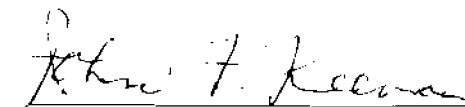
JOHN F. KEENAN, United States District Judge:

After considering the letters submitted by the parties, the Court will not enter Merck's proposed order regarding cases filed by Beatie and Osborn, LLP that involve less than three continuous years of Fosamax use. Whether or not Fosamax can cause ONJ in anyone before three years of use remains an open question that should be resolved uniformly on the basis of the scientific evidence generated after a full opportunity for discovery.

The parties are directed to agree upon and submit to the Court by October 7, 2008 a case management order proposing: (1) a schedule to complete all generic expert discovery in this MDL; and (2) a schedule for summary judgment motions. In the event that the parties cannot reach agreement, by the same date each shall submit its own proposal along with a letter brief in support of it, and appear for a conference in Courtroom 20C on October 16, 2008 at 10:30 am.

SO ORDERED.

Dated: New York, New York  
September 9, 2008

  
JOHN F. KEENAN  
United States District Judge